City of Lafayette Staff Report

For:	Lafayette City Council
By:	Jennifer Russell, Director Parks, Trails & Recreation Dept.
Date Written:	July 3, 2008
Meeting Date:	July 14, 2008
Subject:	Updating existing regulations regarding dedication of land and payment of fees for park and recreation purposes and park facilities.

Introduction

On December 10, 2007, the City retained the professional Services of Seifel Consulting, Inc. to update and revise the City's Parkland Dedication Fee program and propose a new Park Facilities Fee program. The consultant has prepared the attached report which presents the facts and reasoning supporting the 2008 update to the City of Lafayette's Parkland Dedication In Lieu Fee (Parkland Fee) and a new Park Facilities Fee. These fees are paid on new residential projects and on additions of habitable space to existing residences. Together, these Park Fees will allow the City to purchase additional parkland and provide park and recreation facilities to meet the demand generated by these new residents of the City. The facilities can be new or improvements to existing park and recreation areas that increase their capacity to accommodate more users.

The City Attorney prepared an ordinance and resolution that incorporates the recommendations made in the Seifel Report. These documents will change and update Chapter 6-16 of the municipal code. Changes of note include (1) removing the specific fees from the code so they can be updated by resolution; (2) adjusting the partial credits provisions for private property and facilities to account for the new facilities fee; (3) adding a subsection to the credit provisions for related public projects to be clear about the application and approval process; and (4) adding an administration fee (set at one percent in the resolution) to pay for the costs of updating and administering the park fee program.

Recommendation

Adopt ORDINANCE NO. 575 AND RESOLUTION NO. 2008-28 updating existing regulations regarding dedication of land and payment of fees for park and recreation purposes and park facilities.

cc: Parks, Trails & Recreation Commission
City Manager
City Dept. Heads
City Attorney
Seifel Consulting

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Attachments:

1. Seifel Consulting Inc.'s Parkland Dedication Fee Update and Park Facilities Impact Fee Nexus Report
2. Ordinance No. 575
3. Resolution No. 2008-28

FINAL

Parkland Dedication Fee Update and Park Facilities Impact Fee Nexus Report

Prepared for:

City of Lafayette

July 2008

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I. Introduction

This report presents the facts and reasoning supporting the 2008 update to the City of Lafayette's Parkland Dedication In Lieu Fee (Parkland Dedication Fee or Parkland Fee) and the proposed Park Facilities Fee, collectively called the Park Fees. The Park Fees will allow the City to purchase parkland and provide recreation facilities to meet the demand generated by new residential development. Thus, they will ensure that new development helps to sustain a comprehensive park system in Lafayette.

The report builds upon the City's existing Parkland Fee, established in 1993 and subsequently updated in 1999 and 2005. This report presents updates to the existing Parkland Fee and a methodology for the fee to be updated on an annual basis between comprehensive update efforts that may include new land appraisal.

Additionally, this report establishes the nexus for the proposed Park Facilities Fee, a development impact fee, which will support the provision of needed park facilities for the City's parks system. The new fee would be adopted under the authority allowed by AB 1600, the "Mitigation Fee Act."

A. Report Organization

This report presents the background supporting the update to the City's Parkland Fee and establishment of the proposed Park Facilities Fee. It also summarizes the purpose of each fee, describes the methodology for how each fee is calculated, presents the proposed fee amounts, and discusses how each fee will be updated in the future. Following the introductory chapter of this report, the remaining chapters and appendices of this report are organized as follows:

- Chapter II presents the purpose and use of the Park Fees, including the legislative requirements and the types of developments on which the City will levy the Park Fees.
- Chapter III discusses the update to the City's existing Parkland Fee, including background information, the calculation of the fee, and the proposed methodology for annually updating the fee.
- Chapter IV discusses the proposed Park Facilities Fee, including background information, the determination of the relationship (or nexus) between new residential development and the need for providing new park facilities, the calculation of the fee, and the proposed methodology for annually updating the fee.
- Chapter V provides an explanation of the administrative costs included in the Park Fees.
- Chapter VI summarizes the total Park Fees, including the Parkland Fee, Park Facilities Fee and administrative costs.
- Chapter VII discusses the methodology for annual updates to the Park Fees.
- Appendix A provides the indices used for the annual update of the Park Fees.

II. Purpose and Use of the Park Fees

Lafayette's park system plays an integral role in ensuring the quality of life in the City. As described in the Background Report to the City's Parks Master Plan, Lafayette has a comprehensive 91-acre system of parkland and facilities, consisting of neighborhood and community parks, which provide recreational facilities for its residents.

As the City continues to grow through additional residential development, this development will bring new residents who will increase the demand for parkland and recreation facilities. Thus, new development needs to help increase the capacity of the park system to accommodate the additional demand for parkland and park facilities needed by future growth. To that end, Lafayette is considering an update to the Parkland Fee and adoption of a new Park Facilities Fee. Together, the Park Fees would help to more closely match the cost of acquiring new parkland and providing park facilities needed to meet the increased demand generated by new residential development.

The Park Fees will allow the City to purchase and improve new parkland as well as to intensify the use of current recreational resources so that they can accommodate more users. The potential revenues from the combined Park Fees will fund the acquisition of new parkland; improvements to parks and supporting facilities; expansion of trails; construction and renovation of playgrounds, playing fields, and outdoor courts; as well as other amenities that will be needed to serve future Lafayette residents.

Chapters II and III describe the purpose and use of each of the Park Fees in further detail.

A. Overview of Legislative Requirements

Lafayette imposes requirements for the dedication of parkland or payment of a parkland fee in lieu of dedicating land under the authority of the Government Code and pursuant to its police power. Section 66477 of the Government Code (commonly referred to as the Quimby Act) establishes procedures for cities and counties to require the dedication of parkland or payment of fees in lieu of parkland from a residential subdivision. The Quimby Act establishes a park dedication standard that ranges from three to five acres of parkland per 1,000 residents according to the population published in the most recent U.S. Census and the City's existing park acreage.

Lafayette is also considering a new Park Facilities Fee, a development impact fee, which the city may charge under the authority of the Government Code and pursuant to its police power. Sections 66000 et seq. of the Government Code establishes procedures for development impact fees. This legislation (enacted as AB 1600) requires a local agency that establishes, increases, or imposes a development impact fee as a condition of development after January 1, 1989 to do the following:

1. Identify the purpose of each impact fee;
2. Describe the use or improvements for which the fee will be used; and

3. Demonstrate a reasonable relationship (or nexus) between:
   - The need for the public improvements and facilities and the type of new development which will benefit from them, and
   - The amount of the fee, which reflects the proportional cost of the public improvement and facility attributable to the new development on which the fee is imposed.

B. Type of Development on Which Fees Are Imposed

The Park Fees will be assessed on new residential development and additions in Lafayette that will result in an increase in the resident population, thus increasing the demand by new residents for parks and recreation facilities.[1] The proposed fee schedule is differentiated among residential land use types to reflect the differences in facility need among types of new development, based on the number of new residents each residential unit type is likely to generate. The need resulting from residential development is based on the number of new residents living in new units, as indicated in the most recent U.S. Census and reflected in Section 16-1615 of the Lafayette Municipal Code.[2]

The City will also assess the Park Fees on additions to residential units that increase the habitable space of residential structures. Lafayette currently charges its Parkland Fee on additions, per Ordinance 503 from April 1999. In order to ensure that the Park Fees are only assessed on residential development that may increase the City's population, the City will only levy the Park Fees on additions that increase the habitable space of a residential unit by at least 120 square feet.[3]

The City will levy the Parkland Fee and Park Facilities Fee on the following types of residential land uses, as described in the Lafayette Municipal Code:

- **Single Family Detached**: A dwelling including one and only one kitchen, designed for occupancy as a residence of one family, located on a single lot of its own, and surrounded on all sides by yard space.
- **Single Family Attached, Duplex**: A dwelling including one and only one kitchen, designed for occupancy as a residence of one family, located on a single lot of its own, but not surrounded on all sides by yard space.

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[1] The Park Facilities Fee cannot be used to address existing deficiencies to park facilities serving current residents.

[2] Chapters II and III discuss the average number of persons by each residential unit type in further detail.

[3] The minimum floor area of dwelling units and congregate residences, as defined by Section 32 of Title 25 of the California Code of Regulations, based on Uniform Housing Code standards.

- **Apartment/Condominium**: A separate suite, including kitchen facilities, designed for and occupied as the home, residence or sleeping place of one or more persons living as a single housekeeping unit. A condominium consists of an undivided interest in common in a portion of real property coupled with a separate interest in space called a unit, the boundaries of which are described on a recorded final map, parcel map, or condominium plan in sufficient detail to locate all boundaries thereof.
- **Mobile Home**: Units certified under the National Mobile Home Construction and Safety Standards Act of 1974, and any subsequent revisions thereto, and confirming to the requirements of Section 6-527 of the Lafayette Municipal Code.
- **Secondary Unit**: An attached or detached residential dwelling unit that provides complete independent living facilities for one or more persons, as provided for in Section 6-560 of the Lafayette Municipal Code. It shall include permanent provisions for living, sleeping, eating, cooking and sanitation on the same parcel as the primary unit is situated.
- **Additions**: The habitable area of a residential structure of at least 120 square feet to accommodate additional resident(s).

C. Caveats

The data and analysis presented in this report has been gathered from the most reliable sources available to the City and Seifel Consulting Inc. (Seifel). This information has been assembled for the sole purpose of establishing a reasonable estimate of the Parkland Fee and Park Facilities Fee. Some of the numbers presented in tables within this report may not exactly calculate due to rounding.

III. Update of the Parkland Dedication Fee

A. Background on the Parkland Dedication Fee

The City imposes the Parkland Fee requirement in order to ensure that additional parkland will be provided to meet the demand generated by future residential development. The requirement helps to ensure that parkland serving the existing population will not become overburdened by the demand created by new residents. Thus, it ensures that new residential development bears its fair-share responsibility for maintaining a comprehensive park system.

The City's Parkland Fee is based on the cost for the City to acquire land that can be improved as parkland. Typically, this cost has been determined by an appraisal of land that could later be developed into parks in Lafayette. The City updates the fee whenever an appraisal is performed.[4] While the City has charged a Parkland Fee since 1993, the Parkland Fee historically did not include a mechanism by which it could be updated annually in order to keep pace with the growth in land costs. As a result, the City has faced challenges in reaching and maintaining its goal of providing 5 acres of parkland per 1,000 residents.

As the value of land in Lafayette increases over time, it becomes more costly to acquire parkland. Moreover, as the City must accumulate funds in advance of purchasing land, the City must typically pay a higher cost per acre for land than the amount originally charged per acre when the fees were collected. Therefore, to keep pace with the growth in land costs, the City Council asked the Parks, Trails and Recreation (PTR) Commission to update the Parkland Fee to reflect land costs in 2008 and to provide a mechanism that would allow the fee to be updated annually.

Furthermore, the current Parkland Fee includes a 20 percent allowance to help offset the costs of providing park facilities and improvements to newly acquired land. The PTR Commission believes that it would be preferable to use Parkland Fee revenues strictly to acquire new parkland, and that a separate impact fee would be more appropriate to fund costs of park facilities and improvements. Thus, the calculation of the proposed 2008 Parkland Fee will not include the 20 percent allowance, and the Park Facilities Fee described in the next chapter will address the nexus between new residential development and the need to provide more park facilities in Lafayette.

The existing methodology used to calculate the Parkland Fee would generally remain unchanged. The proposed update to the Parkland Fee allows for annual updates to the fee.

The PTR Commission worked with Seifel in 2007 and recommended the following updates:

- Update the Parkland Fee amount annually, using the annual median home sales price for Lafayette to keep better pace with changes in land cost.

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[4] As the number of parcels that can be developed into parkland in Lafayette is limited, future appraisals may include parcels from the Lafayette-Moraga-Orinda ("Lamorinda") area.

- For the 2008 Parkland Fee, increase the 2005 land cost by the average annual change in the annual median sales price of attached and detached single family homes from 2005 through 2007.
- Perform a comprehensive update of the Parkland Fee every five to seven years, including an appraisal of comparable properties that could be purchased for parkland, to make sure that fee levels are based on the market value for land in Lafayette.
- In 2010, or soon thereafter, undertake a land appraisal to update and reset the cost per buildable acre fee basis.
- Continue to use the existing persons per dwelling unit ratios for each dwelling unit type based on the most recent U.S. Census data.

B. Calculation of Parkland Fee

The formula for calculating the Parkland Fee for each housing type, based on the standards outlined in Section 6-16 of the Lafayette Municipal Code, is as follows:

Parkland Fee = Acres per Person
multiplied by
Persons per Dwelling Unit
multiplied by
Fair Market Value per Buildable Acre

Acres per Person:	Ratio of acres per person under Quimby Act standard
Persons per Dwelling Unit:[5]	Number of persons per unit by dwelling unit type
Fair Market Value per Buildable Acre:	Citywide estimated cost for acquisition of vacant land

Each of these factors is discussed below.

1. Acres per Person

The Quimby Act allows cities to charge residential development for parkland acquisition at a standard that ranges between three and five acres per 1,000 residents, based on the City's total park acreage divided by the population in the previous Census. Lafayette currently provides parkland at a ratio of 0.0038 acres per person, or 3.8 acres per 1,000 persons.[6]

[5] Per Section 6-1615 of the Lafayette Municipal Code.

[6] Lafayette's 2000 population was 23,908, according to the Census. The Background Report of the Parks Master Plan states that the City has 91 acres of parkland, including neighborhood and community parks and the Lafayette Community Center.

2. Persons per Dwelling Unit

The number of persons per dwelling unit is based on the average number of persons residing in different types of dwelling unit, as outlined in Section 6-1615 of the Lafayette Municipal Code and shown in Table III-1. Table III-1 also calculates the number of acres of parkland required per dwelling unit type, based on the standard of 0.0038 acres per person.

Table III-1
Park Acreage Requirement per Dwelling Unit Type
City of Lafayette

	Average Persons per Dwelling Unit[a]	Acres per Dwelling Unit[b]
Single Family Detached	2.794	0.0106
Sinle Family Attached, Duplex	1.940	0.0074
Apartment/Condominium	1.689	0.0064
Mobile Home	1.650	0.0063
Second Unit	1.000	0.0038

a. Based on 2000 Census, per Section 6-1615 of the Lafayette Municipal Code.

b. Based on 3.8 acres per 1,000 residents equivalent to .0038 acres per resident.

Source: City of Lafayette Municipal Code, Section 6-1615; City of Lafayette; Seifel Consulting Inc.

3. Fair Market Value per Buildable Acre

Fair market value per buildable acre is based on the appraised value of land that might be acquired as parkland. The fair market value per buildable acre was determined in 2005 at $532,982.[7] To estimate the cost per buildable acre in 2008 dollars, the 2005 fair market value per buildable acre was adjusted by the average annual change in median sales price of detached and attached single-family units in Lafayette from 2005 through 2007 based on sales data from the Contra Costa Association of Realtors.[8] In addition, the adjusted cost includes a five percent allowance for title and escrow fees and other transaction costs associated with the sale and transfer of land.

Table III-2 displays the proposed 2008 adjusted cost per acre for acquisition of parkland.

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[7] April 2004 Residential Land Sales Report for the In Lieu Park Fee Study, Lafayette, California. Prepared by Burchard & Rinehart Real Estate Appraiser & Consultants for the City of Lafayette.

[8] There is currently no index for the fair market value of land. The median sales price of single family homes is an appropriate proxy as residential land is often purchased for conversion into parkland and the Park Fees Program will apply to residential property.

Table III-2
Proposed 2008 Adjustment to Fair Market Value per Buildable Acre for Parkland Fee
City of Lafayette

Fair Market Value per Buildable Acre (2005)	$532,982
Estimated Fair Market Value per Buildable Acre (2008)[a]	$560,838
Plus: 5% Allowance for Transaction Costs[b]	$28,042
Proposed Adjusted Value per Buildable Acre (2008)	**$588,880**

a. Estimated based on average annual increase in median home sale price from 2005 through 2007 calculated at 2.58%, per the Contra Costa Association of Realtors.
b. Includes title and escrow fees and other land transaction costs.

Source: City of Lafayette, Contra Costa Association of Realtors, Seifel Consulting Inc.

4. Residential Additions

As mentioned in Section II.B of Chapter I, the City also levies the Parkland Fee on additions that increase the habitable area of a residential structure. The fee requirement for residential additions was established by Ordinance 503 in April 1999 and was recently updated in 2005. The fee for residential additions is calculated by dividing the fee levied on single-family detached units by the average habitable space of a typical single-family home. For this update, the building permits issued between 2005 and 2007 were used to determine the average size of a single-family home at approximately 4,400 square feet. The fee will only apply to additions to residential units that can potentially generate an increase in the resident population. As such, it will be assessed on a square foot basis on additions that increase the habitable area of residential structures by at least 120 square feet.

5. Proposed Updated 2008 Parkland Fee

Table III-3 shows the proposed 2008 Parkland Fee. The proposed fee includes the adjustment to the fair market value per buildable acre and the typical size of a single-family home, which is used to calculate the Parkland Fee for residential additions.

Table III-3
Proposed 2008 Parkland Fee by Dwelling Unit Type
City of Lafayette

	Parkland Fee
Single Family Detached	$6,262 per unit
Single Family Attached, Duplex	$4,348 per unit
Apartment/Condominium	$3,785 per unit
Mobile Home	$3,698 per unit
Second Unit	$2,241 per unit
Additions[a]	$1.42 per SF

a. Estimated 2008 Parkland Fee for additions calculated by dividing the fee for single family detached units by 4,400 square feet, the average habitable space of new home, calculated from building permits issued from 2005 through 2007.

Source: City of Lafayette, Seifel Consulting Inc.

BEFORE THE CITY COUNCIL OF THE CITY OF LAFAYETTE
IN THE MATTER OF:

An Ordinance of the City Council of the City of Lafayette Amending Chapter 6-16 of the Lafayette Municipal Code Relating to Dedication of Parkland and Park Facilities and Payment of Fees for Park and Recreation Purposes

Ordinance No. 575

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF LAFAYETTE DOES ORDAIN AS FOLLOWS:

Section 1. Findings. The City Council finds the following:

1. The city has required the dedication of land and/or payment of fees, or a combination of both, for park, trail and recreational purposes, which also included the provision of park facilities and improvements. The city desires to delineate the requirement to provide parkland and park facilities into two separate fees to more accurately reflect the cost to the city to provide parkland and park facilities.
2. The project qualifies for a Class 8 categorical exemption because collecting development fees for city parks is a means of protecting the environment. Section 15308 of the CEQA Guidelines states, "Class 8 consists of actions taken by regulatory agencies as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for the protection of the environment."

Section 2. Amendments. Chapter 6-16 of the Lafayette Municipal Code is hereby amended in its entirety to read as follows:

"Chapter 6-16 Dedication of Parkland and Park Facilities and Payment of Fees for Park, Trail and Recreation Purposes

Article 1. General Provisions.

6-1601 Authority.

This chapter is adopted under Government Code Sections 66000 et seq., 66477, and the city's general police power.

6-1602 Compliance with parks, trails and recreation element of general plan.

The parkland and recreation facilities for which land or the payment of a fee, or both, are required shall be in accordance with the parks, trails and recreation element of the city general plan.

6-1603 Supplemental regulations.

The city council shall adopt regulations to establish fees, administration, procedures, implementation, interpretation and policy considered necessary or desirable to carry out this chapter by resolution.

6-1604 Definitions.

As used in this chapter, unless context otherwise requires:

(a) "Development" means:

(1) The rezoning of land to the planned (P-1) land use district, when residential uses are involved (a "planned unit development").

(2) In any residential land use district (whether single-family, two-family or multiple family):

(A) The division of land into two or more parcels,

(B) The conversion of an existing structure to create one or more additional dwelling units,

(C) The construction of new dwelling units,

(D) Enlargement of the habitable area of existing dwelling units except as set forth in Section 6-1627.

(3) Approval of the construction of a residential unit in a land district other than residential.

(b) "Owner" means and includes the agent, representative, subdivider, developer or applicant.

(c) "Park facilities" means new or upgraded trails, paths, bridges, sport fields, recreational courts, children play areas, picnic areas, restrooms, parking lots and any other facility or structural improvements contained in an approved development plan for a designated park or a planned upgrade for a designated park.

Article 2. Requirements for Parkland Dedications, Park Facilities, and Fees

6-1611 Requirements for subdivision.

As a condition of approval of a tentative map or parcel map (referred to in this chapter as development) the owner of land for residential use, excluding that land which is exempt as provided in the Subdivision Map Act, shall:

(1) Dedicate land for park, trail or recreational purposes, pay a fee in lieu thereof, or do a combination of both; and

(2) Pay a park facilities fee, provide park facilities in conjunction with a parkland dedication, or do a combination of both.

6-1612 Requirements for single parcel development.

As a condition of approval of a permit to build a residential structure on any parcel of land of record or to construct an additional dwelling unit an owner shall:

(1) Dedicate land for park, trail or recreational purposes, pay a fee in lieu thereof, or do a combination of both; and

(2) Pay a park facilities fee, provide park facilities in conjunction with a parkland dedication, or do a

combination of both.

As a condition of approval of a permit to add habitable living space (including the conversion of a garage or other structures to habitable living space) an owner shall pay a per square foot parkland dedication in-lieu fee and a per square foot park facilities fee.

6-1613 Requirements for planned unit developments.

The owner of land that is reclassified to the planned (P-1) district, as a condition of approval of the development plan, which provides for one or more dwelling units, including apartments or condominiums, shall:

(1) Dedicate land for park, trail or recreational purposes, pay a fee in lieu thereof, or do a combination of both; and

(2) Pay a park facilities fee, provide park facilities in conjunction with a parkland dedication, or do a combination of both.

6-1614 General standard for dedication of parkland, park facilities, or payment of fee.

(a) The amount of land to be dedicated for park and recreational facilities, or the payment of fee in lieu thereof, or combination of both, shall not exceed five acres per 1,000 persons residing within a subdivision subject to this chapter. The city shall adopt a resolution, which shall set forth the actual amount of parkland to be dedicated, or fee to paid in lieu thereof, based upon the ratio of the park acreage owned by the city to the total population of the city, as shown in the most recent available federal census.

(b) The park facilities fee shall be based upon the ratio of parkland acres per person as specified above in subsection (a), the amount of persons per dwelling unit, and the weighted average facilities cost per acre as set forth in greater detail by resolution. Park facilities may be provided on dedicated parkland to offset payment of part or all of the park facilities fee as provided in Section 6-1616.

(c) The parkland in-lieu fee and park facilities fee for residential additions shall be based upon the size of a typical single family home, as set forth in greater detail by resolution.

6-1615 Standards and formula for dedication of land and payment of fees in lieu of dedication of land.

(a) The amount of land to be dedicated and the formula to establish the amount of land to be dedicated and the fee to be paid in-lieu of dedication shall be set forth by resolution.

(b) All land offered for dedication shall have access to at least one existing or proposed street open for general public access. This requirement may be waived by the city council if the city council determines that public street access is unnecessary for maintenance of the park area or use thereof.

(c) The land to be dedicated under this chapter shall be considered for approval by the city council upon recommendation of the parks, trails and recreation commission and planning commission.

(d) Only the payment of fees, not the dedication of lands, may be required in subdivisions containing 50 parcels or less.

(1) When a condominium project, stock cooperative, or community apartment project, as those terms are defined in Section 1351 of the Civil Code, exceeds 50 dwelling units, notwithstanding that the number of parcels may be less than 50, dedication of land may be required.

(2) However, nothing in this subsection precludes the dedication and acceptance of land for park and recreation purposes in subdivisions of 50 parcels or less, where the owner proposes such dedication voluntarily and the land is acceptable to the city council.

(e) The owner may be required to, without credit against the amount of land to be dedicated:

(1) Provide full street improvements and utility connections pursuant to city standards to land which is dedicated under this Chapter;

(2) Provide improved grading and drainage through the dedicated site; and

(3) Provide other improvements which the approving body determines to be essential to the use of the land.

6-1616 Standards and formula for park facilities fees and park facilities on dedicated parkland.

(a) The standards and formula for setting the park facilities fee shall be set forth by resolution.

(b) Park facilities may be provided under this chapter on parkland that is being dedicated to the city. Part or all of the park facilities fee may be offset based on the cost of the facilities provided.

6-1617 Partial credit for private open land, trails and recreation facilities.

(a) In common interest developments (as defined in Section1351, of the Civil Code), partial credits may be available for private open land, trails or recreation facilities within the development usable for active recreational uses are provided and meet the standards specified below. Partial credits cannot exceed 50 percent against the requirement of land dedication or payment of in-lieu fees for land dedication.

(b) An application for partial credit must be submitted to the city manager who will forward it to the parks, trails and recreation commission, with a copy to the planning commission, no later than at the time the tentative map is submitted for the official city review. Following action by the planning commission on the tentative map, the question of partial credit shall be scheduled for consideration by the city council based upon the recommendations of the parks, trails and recreation commission and the planning commission. Partial credit may be given only if the city council finds that it is in the public interest to do so and that the standards set forth in the next paragraphs are met.

(c) The standards for partial credit for provision of private land against parkland dedication or in-lieu fees are as follows:

(1) Yards, median strips, setbacks and other open areas or landscaping required to be maintained by the zoning and building ordinances and regulation shall not be included in the computation of such credit; and

(2) The private ownership and maintenance of the area, is adequately provided for by recorded written agreement (to which the city is a party), covenants or restrictions that bind future owners to maintaining the area and the facilities; and

(3) The use of the private open land and recreation facilities is restricted for park and recreational purposes by recorded covenants which run with the land in favor of the future owners of the property within the tract and which cannot be amended or eliminated without the consent of the city or its successor; and

(4) Those elements and facilities proposed for the area are in substantial accordance with the provisions of the open space, parks, school and utilities element of the general plan; and

(5) The proposed private land is reasonably adaptable for use for park and recreational purposes, taking into consideration such factors as size, shape, land use compatibility, slope, topography, geology, natural setting, access and location; and

(6) The private land areas for which credit may be given may include the following:

Item	Minimum Area Size
Children's play area	0.50 acre
Passive park area	0.50 acre
Group picnic area	0.25 acre
Recreational court area	0.25 acre
Turf playfield area	1.00 acre
Swimming pool area	0.25 acre
Bicycle trail (linear feet)	1,000 feet
Hiking and/or equestrian trail (linear feet)	2,000 feet

Bicycle, hiking and/or equestrian trails refer to neighborhood trails that may join a community or regional trail system. (Under California Government Code 66475.1, a developer of over 200 parcels may be required to dedicate bicycle paths.);

(d) If park facilities are provided on the private land that is accepted as a partial credit against the parkland dedication or in-lieu fee requirement, an offset of up to 50 percent of the park facilities fee requirement may be granted based upon the cost of such park facilities. The amount of the offset shall be subject to approval by the city council upon recommendation of the parks, trails and recreation commission and the planning commission. An offset may be given only if the city council finds that it is in the public interest to do so.

6-1618 Credit for public facilities, open land areas, and park facilities.

(a) The city council upon recommendations from the parks, trails and recreation commission and planning commission may give full or partial credit against the requirement of land dedication, payment of fees in-lieu of parkland dedication, or park facilities fees for on-site and off-site public park, trail and open space projects that the council finds are of major benefit to the entire community and that are dedicated for public use. Public trails as used in this section are those used on a regional or community-wide basis or which serve as a major artery for a community or regional trail system, and which are used primarily by residents living outside the subdivision.

(b) An application for credit must be submitted to the city manager who will forward it to the parks, trails and recreation commission, with a copy to the planning commission, no later than at the time the tentative

map is submitted for the official city review. Following action by the planning commission on the tentative map, the question of credit shall be scheduled for consideration by the city council based upon the recommendations of the parks, trails and recreation commission and the planning commission. Credit may be given only if the city council finds that it is in the public interest to do so.

6-1619 Limitations on the use of land, park facilities, and fees.

The land, park facilities and fees collected, or a combination thereof, shall be used only for the purpose of developing new or upgrading existing city-owned park or recreation facilities.

6-1620 Administration fee.

An administration fee shall be charged to cover the administration costs associated with the dedication of parkland and facilities, the parkland fee, and park facilities fee. The administration fee shall be paid in conjunction, and at the same time, with the dedication of land and park facilities, the payment of fees or a combination of both as provided in this Chapter. This administration fee shall be set forth by resolution of the city council.

Article 3. Procedures and Administration

6-1621 Establishment and development time.

Before city approval of a final map, the parks, trails and recreation commission shall have recommended and the city council shall have established a schedule specifying how, when and where the city will use the land or fees, or both, to develop park or recreational facilities.

6-1622 Refunds.

All land dedicated, park facilities provided, or fees paid shall be held by the city only for the purposes described in Section 6-1619.

(a) Parkland dedication fees collected under this chapter shall be committed within five years after the payment of such fees or the issuance of building permits on one-half of the lots created by a subdivision, whichever occurs later. If such fees are not committed, such uncommitted funds shall be distributed among the then record owners of the subdivision in the same proportion that the size of their lot bears to the total area of all lots within the subdivision. For the purpose of this chapter, "committed" means that the fees have been encumbered by contract, conveyed or paid for a specific project, to accomplish a specific purpose with the scope of Section 6-1619.

(b) Except when administrative costs of refunding the unexpended revenues exceed the amount to be refunded, when sufficient funds have been collected for park facilities, as provided for in the Mitigation Fee Act, Section 66006(b)(1)(F) of the Government Code, to complete financing on incomplete public facilities and the public facilities remain incomplete, the city shall identify, within 180 days of the determination that sufficient funds have been collected, an approximate date by which the acquisition and installation of the parkland facilities will be commenced, or shall refund to the then current record owner or owners of the lots or units, as identified on the last equalized assessment roll, of the development project or projects on a prorated basis, the unexpended portion of the park improvement fee, and any interest accrued thereon.

6-1623 Sale of dedicated land.

If, during the ensuing time between dedication of land for park purposes and commencement of first stage development, circumstances arise which indicate that another site would be more suitable for local park, trail or recreational purposes (such as receipt of a gift of additional park and or a change in school location), the land may be sold upon the approval of the city council with the resultant funds being used for the purchase of a more suitable site.

6-1624 Proposal as to dedication of land, park facilities or payment of fees.

(a) At the time of the submittal of a tentative map for official city review or an application for a building permit when no map is required, the owner shall indicate a preference for dedicating land, paying a fee, or a combination of both. If the owner prefers to dedicate land, the owner shall designate it and clearly identify those elements for which the owner is requesting partial credit. Additionally, the owner shall provide evidence of how the dedicated land is to be maintained to a standard acceptable to the approving body.

(b) At the time of the submittal of a tentative map for official city review or an application for a building permit when no map is required, the owner shall indicate a preference for paying a park facilities fee, providing park facilities on dedicated parkland, or a combination of both. If the owner prefers to provide park facilities, the owner shall identify the park facilities and clearly identify those elements for which the owner is requesting an offset of the fees. Additionally, the owner shall provide evidence of how the park facilities are to be maintained to a standard acceptable to the approving body.

6-1625 Decision of planning commission on requirement for land dedication, park facilities or payment of fees.

(a) At the time of approval of the development, the planning commission upon recommendation of the parks, trails and recreation commission shall determine whether to require the dedication of land within the development or the payment of a fee instead, or a combination of both. In making this determination, the planning commission shall consider the following factors:

(1) Whether or not the land offered for dedication substantially complies with the park and recreation, open space, schools and utilities elements of the general plan; and

(2) The topography, soils, soil stability, drainage, access, location and general utility of the land proposed for dedication; and

(3) The size and shape of the development and land proposed to be dedicated; and

(4) The availability of school playgrounds, public parklands and recreational trails in the area and whether or not these can be combined with the land proposed to be dedicated for park and recreational facilities; and

(5) Privately owned park and recreational facilities permanently available and maintained for use by future residents of the development, including any partial credit to be applied pursuant to Section 6-1617 that has been approved by the city council; and

(6) Credit to be applied pursuant to Section 6-1618 that has been approved by city council.

(b) At the time of approval of the development, the planning commission upon recommendation of the parks, trails and recreation commission shall also determine whether the provision of park facilities on dedicated parkland, or the payment of a fee, or a combination of both, is acceptable, including any private facility partial credit (Section 6-1617) or public facility credit (Section 6-1618) approved by the city council.

6-1626 Time and manner of satisfying requirement.

The time and manner for satisfying the requirements imposed by this chapter upon the development of land are as follows:

(a) When land is to be dedicated, it shall be offered for dedication in substantially the same manner as property offered for dedication for street and other public purposes.

(b) When park facilities are to be provided, they shall be offered to the city at the time of recording of the final map or parcel map or issuance of the building permit, whichever occurs first.

(c) When a fee is required, it shall be paid to the city at the time of the recording of the final map or parcel map or issuance of the building permit, whichever occurs first.

6-1627 Exemptions.

(a) A permit to rebuild a dwelling unit damaged or destroyed by act of God, fire or other natural disaster, is exempt from this chapter if the permit to rebuild is applied for by the owner within one year of the damage or destruction caused by the natural disaster. If the habitable area of the new unit exceeds that of the unit destroyed or damaged, then the owner shall pay the fee as if the increased area were an addition.

(b) This chapter does not apply to subdivisions containing less than five parcels and not used for residential purposes. However, the city shall place the following condition on the parcel map approval of subdivision: If, within four years, a building permit is requested for construction of a residential structure on one or more of the parcels, the owner of each such parcel is required to comply with this chapter before the permit is issued.

(c) This chapter does not apply to commercial or industrial subdivisions; nor does it apply to condominium projects or stock cooperatives which consist of the subdivision of airspace in an existing apartment building if that building is more than five years old and no new dwelling units are added.

(d) No fee, land dedication, nor park facility is required on a parcel for which the requirements of this chapter have previously been met, unless the owner proposes to build a residential structure to add habitable floor area to an existing dwelling unit or to build a second unit on the parcel. If a lesser fee was paid when a subdivision map was recorded the owner shall pay the difference between the amount previously paid and the amount required by the currently approved city fees.

(e) No fee is required for additions to residences of less than 120 square feet of habitable space.

6-1628 Development of facilities--Specific schedule.

The applicant shall provide a report on the schedule of development to the planning commission and parks, trails and recreation commission when submitting the final map to the city. At the time the city approves the final map, parcel map or building permit, the city shall designate when the owner must begin

and complete development of the park, trails and recreational facilities, including either on-site or off-site park facilities.

6-1629 Administration.

The fees and interest earned thereon shall be accounted for accordingly in a separate parkland dedication fund and park facilities fund by the city manager until committed by the city."

Section 3. The City Clerk shall certify the adoption of this ordinance and shall cause same to be published as required by law.

Section 4. Effective Date. This Ordinance becomes effective thirty (30) days after its adoption.

Section 5. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof is for any reason held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, paragraph, sentence, clause or phrase of this Ordinance, irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective. To this end the provisions of this Ordinance are declared to be severable.

Section 6. Publication. The City Clerk shall either (a) have this ordinance published in a newspaper of general circulation once within fifteen (15) days after its adoption, or (b) have a summary of this ordinance published twice in a newspaper of general circulation, once five (5) days before its adoption and again within fifteen (15) days after adoption.

The foregoing ordinance was introduced at a meeting of the City Council of the City of Lafayette held on July 14, 2008, and was adopted and ordered published at a meeting of the City Council held on July 28, 2008 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

Joanne Robbins, City Clerk

APPROVED:

Mike Anderson, Mayor

BEFORE THE CITY COUNCIL OF THE CITY OF LAFAYETTE
IN THE MATTER OF:

A Resolution of the City Council of the City of Lafayette Setting Parkland Dedication and Fees In Lieu Thereof, and Park Facilities Fee for Park and Recreation Purposes	)	Resolution No. 2008-28

WHEREAS, Chapter 6-16 of the Lafayette Municipal Code requires, as a condition of approval of a tentative map or parcel map for residential use and for additions to a dwelling unit (including the conversion of a garage or other structures to habitable living space: (i) dedications of land and/or payment of fees, or a combination of both, for park, trail and recreational purposes; and (ii) provision of park facilities or payment of a fee, or a combination of both;

WHEREAS, Lafayette Municipal Code section 6-1303 provides that the City Council shall adopt regulations to establish fees, administration, procedures, implementation, and interpretation and policy necessary to carry out Chapter 6-16;

WHEREAS, pursuant to Government Code section 66001(a), anytime a fee is imposed as a condition of approval of a development project the City shall: (1) identify the purpose of the fee; (2) identify the use to which the fee will be put, and, if the use is financing public facilities, identify the facilities for which the fee is charged; (3) identify how the fee's use bears a reasonable relationship to the type of development project on which the fee is imposed; (4) identify how the need for the public facility bears a reasonable relationship to the type of development project on which the fee is imposed; and (5) determine that there is a reasonable relationship to the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed. A technical report dated July 2008, has been prepared by Seifel Consulting, Inc. that includes this information and is hereby adopted and incorporated herein by reference;

WHEREAS, pursuant to Government Code Section 66016 et seq., the City has: (1) made available to the public at least at least ten days prior to its public hearing, data supporting the reasonableness of the fees; (2) mailed notice at least fourteen days prior to the public hearing to all interested parties who have requested notice of new or increased fees; (3) published notice two times in a newspaper of general circulation at least ten days prior to the public hearing; and (4) held a duly noticed, regularly scheduled public hearing at which oral and written testimony was received regarding the proposed fees; and

WHEREAS, the project qualifies for a Class 8 categorical exemption because collecting development fees for city parks is a means of protecting the environment. Section 15308 of the CEQA Guidelines states, "Class 8 consists of actions taken by regulatory agencies as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for the protection of the environment."

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF LAFAYETTE DOES RESOLVE AS FOLLOWS:

Section 1. Definitions

As used in this Resolution, unless context otherwise requires:

a. "Additions" means the habitable area of a residential structure of at least 120 square feet to accommodate additional resident(s).

b. "Apartment" means a separate suite, including kitchen facilities, designed for and occupied as the home, residence or sleeping place of one or more persons living as a single housekeeping unit.

c. "Condominium" means an undivided interest in common in a portion of real property coupled with a separate interest in space called a unit, the boundaries of which are described on a recorded final map, parcel map, or condominium plan in sufficient detail to locate all boundaries thereof.

d. "Duplex" means a detached building or part of it, designed for occupancy as the residence of two families living independently of each other.

e. "Mobile Home" means units certified under the National Mobile Home Construction and Safety Standards Act of 1974, and any subsequent revisions thereto, and conforming to the requirements of Section 6-527 of the Lafayette Municipal Code.

f. "Single Family Attached, Duplex" means a dwelling including one and only one kitchen, designed for occupancy as a residence of one family, located on a single lot of its own, but not surrounded on all sides by yard space.

g. "Single Family Detached" means a dwelling including one and only one kitchen, designed for occupancy as a residence of one family, located on a single lot of its own, and surrounded on all sides by yard space.

h. "Second Unit" means an attached or detached residential dwelling unit that provides complete independent living facilities for one or more persons, as provided for in Section 6-560 of the Lafayette Municipal Code. It shall include permanent provisions for living, sleeping, eating, cooking and sanitation on the same parcel as the primary unit is situated.

Section 2. Standards and Formula for Dedication of Land.

The amount of land to be dedicated for park and recreational facilities shall be determined according to the following standards and formula:

(a) The ratio of neighborhood and community park acreage bears to the total population of the City, as shown in the most recent available Federal Census, 3.8 acres per 1,000 persons, which is the same as 0.0038 acre (or 166 square feet) per person. This ratio is based upon the City's population of 23,908, according to the 2000 Federal Census and 91 acres of neighborhood and community parks. The City shall require 3.8 acres of property for each 1,000 persons residing within the City to be devoted to local park and recreation purposes.

(b) The following table shall be used to establish the average number of persons per dwelling unit for each household classification based on the most recently available census. The table also shows the required parkland dedication per dwelling unit, which is based on multiplying the average number of persons per dwelling unit times the parkland dedication requirement of 0.0038 acres per person.

Unit	**Average Persons Per Dwelling Unit**	**Acreage and Sq. Ft. Requirement Per Dwelling Unit**
Single Family Detached	2.794	.0106 (462 sq. ft.)
Single Family Attached or Duplex	1.940	.0074 (322 sq. ft.)
Apartments or Condominiums, three or more units	1.689	.0064 (279 sq. ft.)
Mobile Home	1.650	.0063 (274 sq. ft.)
Second Unit	1.000	.0038 (166 sq. ft.)

For the purposes of this section, the number of new dwelling units shall be based upon the number of parcels indicated on the map when in an area zoned for one dwelling unit per parcel. When all or part of the subdivision is located in an area zoned for more than one dwelling unit per parcel, the number of proposed dwelling units in the area so zoned shall be the number of duplex, condominium or apartment units. The term "new dwelling unit" does not include an existing dwelling unit in place prior to the date on which the parcel or final map is filed.

(c) The amount of land to be dedicated is determined by the following formula:

Amount of Land = Total No. of dwelling units x Avg. No. of persons per dwelling unit x 0.0038 acre per person

For example, the area required for dedication for a subdivision of 100 single-family residential units would be:

100 x 2.794 x 0.0038 = 1.06 acres

Section 3. Standards and Formula for Fees in Lieu of Dedication of Land

(a) When a fee is to be paid in lieu of dedication of land, the fee shall be equal to the value of the land prescribed for dedication in Section 2 above and in an amount determined in accordance with subsection (b).

(b) The amount of the fee shall be determined at the time of final map approval or building permit issuance, whichever is the time of fee collection, and shall be based upon the fair market value of the amount of land which would otherwise be required for dedication under Section 2. The fair market value established (as of 2008) for assessing an in-lieu park dedication fee is $588,880 per buildable acre and shall be adjusted annually effective July 1 of each year to reflect changes in the fair market value for land in the City by the average annual percent change in the median sale price of attached and detached single-family homes in Lafayette, as determined by sales data from the Contra Costa Association of Realtors averaged over the previous two calendar years. The 2009 update to the parkland dedication fee, for example, will increase the 2008 fair market value per buildable acre by the average annual percent change in the median sale price of single-family homes sold in each year between January 1, 2007 and December 31, 2008.

(c) The parkland dedication fee amount for residential additions is based on the fee levied on single-family detached units divided by the average habitable space of a typical single-family home, which has been 4,400 square feet based on building permits issued during 2005 through 2007. The fee will only apply to residential additions that increase the habitable area of residential structures by at least 120 square feet.

For example, the parkland dedication fee for a single-family detached unit in 2008 would be 0.0106 acre (from Section 2(b)) x $588,880 / buildable acre = $6,262 (based upon the above value of the date of adoption of this Resolution).

The following table shows the resulting fees per unit for 2008:

Unit	Parkland Dedication Fee
Single Family Detached	$6,262
Single Family Attached or Duplex	$4,348
Apartments or Condominiums, three or more units	$3,785
Mobile Home	$3,698
Second Unit	$2,241
Additions	$1.42 per sf

Section 4. Standards and Formula for Park Facilities Fees

(a) The park facilities fee shall be determined at the time of final map approval or building permit issuance, whichever is the time of fee collection, and shall be equal to the amount of parkland prescribed for dedication for each dwelling type in Section 2(b) multiplied by the value of park facilities of $600,000 per acre. The park facilities fee shall be adjusted annually effective July 1 of each year in order to keep pace with inflation of construction costs in the Bay Area by the Construction Cost Index, published for the Bay Area by Engineering News-Record.

(b) As with parkland dedication, the fee amount for residential additions is based on the fee levied on single-family detached units divided by the average habitable space of a typical single-family home. The park facilities fee will only apply to residential additions that increase the habitable area of residential structures by at least 120 square feet.

The following table shows the resulting park facilities fee per unit for 2008:

Unit	Park Facilities Fee
Single Family Detached	$6,380
Single Family Attached or Duplex	$4,430
Apartments or Condominiums, three or more units	$3,857
Mobile Home	$3,768
Second Unit	$2,283
Additions	$1.45 per sf

Section 5. Program Administration Fee

In order to cover the program administration costs associated with the dedication of parkland and facilities, the parkland fee, and park facilities fee, a program administration fee shall also be paid.

The following table shows the resulting program administration fee for the combined fees for parkland dedication and park facilities per unit for 2008:

Unit	Administration Cost for Combined Parkland Dedication and Facilities Fee
Single Family Detached	$126
Single Family Attached or Duplex	$88
Apartments or Condominiums, three or more units	$76
Mobile Home	$75
Second Unit	$45
Additions	$0.03 per sf

Section 6. Accounting

As of the date the new fees are effective, the fees and interest earned for the parkland dedication fee and the park facilities fee shall be accounted for separately.

Section 7. Recitals

The City Council of the City of Lafayette, California, finds that the above recitals are true and correct.

Section 8. Effective Date. This Resolution shall become effective sixty (60) days after its adoption.

PASSED AND ADOPTED by the City Council of the City of Lafayette at a regular meeting of said Council on _____, 2008 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

_____
Joanne Robbins, City Clerk

APPROVED:

_____
Mike Anderson, Mayor